

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

09 AUG 13 PM 3:33
CLERK
U.S. DISTRICT COURT
SAN FRANCISCO

MMC

UNITED STATES OF AMERICA,

v.

CR 09

0824

KAM SETO, PETER CHAN, and
ZHIJIAN WU, a/k/a ZHU WU

DEFENDANT(S).

INDICTMENT

VIOLATIONS: 18 U.S.C. Section 1349 - Conspiracy to Commit
Bank Fraud; 18 U.S.C. Section 1344 - Bank Fraud; 18 U.S.C.
Section 1028A(a)(1) - Aggravated Identity Theft; 18 U.S.C. Section
982(a)(2)(A) - Criminal Forfeiture

NO BAIL ARREST WARRANT

A true bill.

Synda Benjamin
Foreman

Filed in open court this 13 day of

August, 2009
Brenda Tolbert
Clerk

Bail, \$ _____

Marla Elena James
Marla Elena James
United States Chief Magistrate Judge

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED
 Count 1: 18 U.S.C. § 1349 — Conspiracy to Commit Bank Fraud
 Counts 2-12 & 14-16: 18 U.S.C. § 1344 — Bank Fraud
 Count 23: 18 U.S.C. § 1028A(a)(1) — Aggravated Identity Theft

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

 PENALTY: Counts 1, 2-12 & 14-16: 30 years' imprisonment, \$1,000,000 fine, 5 years' supervised release, \$100 special assessment (each count)
 Count 23: 2 year mandatory consecutive sentence of imprisonment, 1 year supervised release, \$100 special assessment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

KAM SETO

DISTRICT COURT NUMBER

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

United States Secret Service

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

 Name and Office of Person
 Furnishing Information on this form JOSEPH P. RUSSONIELLO

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned) K. Waldinger and K. Dowling

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

- 1)
- ☐
- If not detained give date any prior summons was served on above charges
-
- 2)
- ☐
- Is a Fugitive
-
- 3)
- ☐
- Is on Bail or Release from (show District)

IS IN CUSTODY

- 4)
- ☐
- On this charge
-
- 5)
- ☐
- On another conviction }
- ☐
- Federal
- ☐
- State
-
- 6)
- ☐
- Awaiting trial on other charges
-
- If answer to (6) is "Yes", show name of institution

 Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT

Bail Amount: No bail

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING

OFFENSE CHARGED

Count 1: 18 U.S.C. § 1349 — Conspiracy to Commit Bank Fraud ☐ Petty
 Counts 18-22: 18 U.S.C. § 1344 — Bank Fraud ☐ Minor
 Count 25: 18 U.S.C. § 1028A(a)(1) — Aggravated Identity Theft ☐ Misdemeanor

☒ Felony

PENALTY: Counts 1 & 18-22: 30 years' imprisonment, \$1,000,000 fine, 5 years' supervised release, \$100 special assessment (each count)
 Count 25: 2 year mandatory consecutive sentence of imprisonment, 1 year supervised release, \$100 special assessment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

PETER CHAN

DISTRICT COURT NUMBER

CR 09

0824

DEFENDANT**IS NOT IN CUSTODY**

- Has not been arrested, pending outcome this proceeding.
- 1) ☐ If not detained give date any prior summons was served on above charges
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) ☐ On this charge
- 5) ☐ On another conviction } ☐ Federal ☐ State
- 6) ☐ Awaiting trial on other charges
- If answer to (6) is "Yes", show name of institution

Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

United States Secret Service

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

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Name and Office of Person

Furnishing Information on this form JOSEPH P. RUSSONIELLO

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

Kyle Waldinger and K. Dowling

ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**

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Bail Amount: No bail

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: Before Judge:

Comments:

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED

Count 1: 18 U.S.C. § 1349 — Conspiracy to Commit Bank Fraud

Counts 13 & 17: 18 U.S.C. § 1344 — Bank Fraud

Count 24: 18 U.S.C. § 1028A(a)(1) — Aggravated Identity Theft

☐ Petty☐ Minor☐ Misdemeanor☒ Felony
 PENALTY: Counts 1, 13 & 17: 30 years' imprisonment, \$1,000,000 fine, 5 years' supervised release, \$100 special assessment (each count)
 Count 24: 2 year mandatory consecutive sentence of imprisonment, 1 year supervised release, \$100 special assessment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

ZHIJIAN WU A/K/A ZHU WU

DISTRICT COURT NUMBER

CR 09

0824

MMC

DEFENDANT**IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

- 1) ☐ If not detained give date any prior summons was served on above charges
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) ☐ On this charge
- 5) ☐ On another conviction } ☐ Federal ☐ State
- 6) ☐ Awaiting trial on other charges
- If answer to (6) is "Yes", show name of institution

 Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

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Name and Office of Person

Furnishing Information on this form JOSEPH P. RUSSONIELLO

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

K. Waldinger and K. Dowling

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Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: Before Judge:

Comments:

JOSEPH P. RUSSONIELLO (CSBN 44332)
United States Attorney

FILED
09 AUG 13 11:32
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
SAN FRANCISCO, CALIF.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MMC

UNITED STATES OF AMERICA,

Plaintiff,

v.

KAM SETO,
PETER CHAN, and
ZHIJIAN WU,
a/k/a Zhu Wu,
Defendants.

No. 09

0824

VIOLATIONS: 18 U.S.C. § 1349 —
Conspiracy to Commit Bank Fraud; 18
U.S.C. § 1344 — Bank Fraud; 18 U.S.C.
§ 1028A(a)(1) — Aggravated Identity Theft;
18 U.S.C. § 982(a)(2)(A) — Criminal
Forfeiture

SAN FRANCISCO VENUE

INDICTMENT

The Grand Jury charges:

BACKGROUND

At all times relevant to this Indictment:

1. The defendants Kam Seto, Peter Chan, and Zhijian Wu were individuals who resided in the Northern District of California.
2. Wells Fargo Bank ("Wells Fargo") was a financial institution, as that term is defined in Title 18, United States Code, Section 20, the deposits of which were insured by the Federal Deposit Insurance Corporation ("FDIC").
3. "Convenience" checks were checks issued to credit card account holders by the issuing bank of the credit card. In general, convenience checks were a special type of check

INDICTMENT

1 drawn on an individual's credit card account that could be used to make purchases, make
2 payments, or transfer balances from other credit card accounts. Issuing banks often provided
3 cardholders with convenience checks upon initial issuance of a credit card, as well as in
4 conjunction with monthly statements and at other times. When an individual used a convenience
5 check to make purchases or payments, such use was considered a cash advance by the issuing
6 bank, upon which interest began to accrue immediately. Accordingly, when an individual
7 deposited a convenience check into an account at a financial institution, the financial institution
8 receiving such a deposit commonly treated the deposit as cash, and did not place a waiting time
9 on the availability of the funds, as it commonly would have done with bank draft checks.

10 4. When the issuing bank of a convenience check was presented with a negotiated
11 convenience check that (a) was related to a fraudulent credit card account, (b) had been stolen, or
12 (c) was otherwise invalid, the issuing bank commonly refused to make payment to the entity
13 (usually a financial institution such as Wells Fargo) that had presented the check (hereafter
14 "presenting bank"). In such instances, the issuing bank returned the convenience check to the
15 presenting bank, after stamping it with notices such as "REFER TO MAKER," "INSUFFICIENT
16 FUNDS," "NSF" ("non-sufficient funds"), "LOST/STOLEN," "DO NOT REDEPOSIT,"
17 "DECLINE," and "ACCOUNT CLOSED," among others. For purposes of this Indictment, these
18 notices are referred to collectively as instances in which convenience checks were returned to the
19 presenting bank for "insufficient funds."

20 5. "Q.L." was an individual who resided in the Northern District of California. In
21 approximately 2002 and 2003, Q.L. was employed by the defendant Kam Seto.

22 6. On February 9, 2004, an unknown conspirator used a variant of Q.L.'s name to
23 open a Wells Fargo checking account, numbered ending 5234 (hereafter "the 5234 Account"), at
24 a branch located at 2020 Market Street, San Francisco, CA. On the application for the account,
25 the conspirator provided a Social Security number ending 6426 and a California driver's license
26 number ending 4213, both of which were assigned to and belonged to Q.L. In addition, the
27 conspirator provided the correct month and day of Q.L.'s birth on the account application, but
28 provided a year of birth that was two years earlier than Q.L.'s year of birth.

1 7. Wells Fargo later issued a single ATM card numbered ending 2501 with respect to
2 the 5234 Account (hereafter "5234 ATM Card"). The 5234 ATM Card bore the same variant of
3 Q.L.'s name that had been placed on the application for the 5234 Account.

4 8. The variant of Q.L.'s name that appeared on (a) the application for the 5234
5 Account, (b) the 5234 ATM Card, and (c) numerous convenience checks deposited into the 5234
6 Account in October 2005 constituted a "means of identification" as that term is defined in Title
7 18, United States Code, Section 1028(d)(7), in that it was a name that could be used, alone or in
8 conjunction with other information, to identify the specific individual Q.L.

9 9. The sequence of numbers ending 2501 on the 5234 ATM Card constituted a
10 "means of identification" as that term is defined in Title 18, United States Code, Section
11 1028(d)(7), in that those numbers were an access device that could be used, alone or in
12 conjunction with other information, to identify the specific individual Q.L.

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1 COUNT ONE: 18 U.S.C. § 1349 — Conspiracy to Commit Bank Fraud

2 10. The factual allegations in paragraphs 1 through 9 are re-alleged and incorporated
3 herein as if set forth in full.

4 11. Beginning on a date unknown, but by no later than on or about October 1, 2005,
5 and continuing to at least on or about October 19, 2005, in the Northern District of California,
6 and elsewhere, the defendants,

7 KAM SETO,
8 PETER CHAN, and
ZHIJIAN WU,

9 did knowingly and willfully conspire and agree with each other, and with other persons unknown
10 to the Grand Jury, to commit the crime of bank fraud, in violation of Title 18, United States
11 Code, Sections 1344(1) and (2).

12 MANNER AND MEANS OF THE CONSPIRACY

13 12. The purpose of this conspiracy to defraud was to obtain money from Wells Fargo,
14 other FDIC-insured financial institutions, and issuing banks of credit cards, all so that the
15 defendants and their conspirators could enrich themselves.

16 13. Among the means and methods by which the defendants and others carried out
17 this conspiracy were the following:

- 18 a. The defendants and conspirators made misrepresentations of material facts to
19 Wells Fargo and other FDIC-insured financial institutions by opening bank
20 accounts using the names and identities of other individuals, using fictitious
21 identities, or providing other material false information.
- 22 b. The defendants and conspirators made misrepresentations of material facts to
23 FDIC-insured financial institutions and issuing banks of credit cards by opening
24 credit card accounts using the names and identities of other individuals, using
25 fictitious identities, and providing other material false information.
- 26 c. The defendants and conspirators maintained at least some of the bank and credit
27 card accounts in good standing for a period of time, and did so for the purpose of
28 increasing point-of-sale and withdrawal limits with respect to ATM cards related

1 to the bank accounts and for the purpose of obtaining convenience checks
2 (hereafter "fraudulent convenience checks") and increasing credit limits with
3 respect to the credit card accounts.

4 d. After the point-of-sale and withdrawal limits were increased for a particular bank
5 account, the defendants and conspirators deposited fraudulent convenience checks
6 into the bank account, knowing that such checks were fraudulent and would
7 possibly be returned for insufficient funds and, further, intending never to re-pay
8 the issuing banks of such checks for those checks that were not returned for
9 insufficient funds. The defendants and co-conspirators thereafter withdrew, or
10 attempted to withdraw, funds related to those convenience checks from the bank
11 account.

12 e. It was further part of the conspiracy that, thereafter, the defendants and
13 conspirators deposited additional fraudulent convenience checks into the bank
14 account in order to "cover" the fraudulent convenience checks that previously had
15 been deposited, knowing that such checks were fraudulent and would possibly be
16 returned for insufficient funds, and did so for the purpose of perpetuating the
17 conspiracy to defraud.

18 OVERT ACTS COMMITTED IN FURTHERANCE OF THE CONSPIRACY

19 14. On or about the dates set forth below, in furtherance of the conspiracy and to
20 effect the objects thereof, the following overt acts, among others, were committed in the
21 Northern District of California, and elsewhere:

22 The 5234 Account

23 a. As alleged in paragraph 6, on February 9, 2004, an unknown conspirator used a
24 variant of Q.L.'s name to open the 5234 Account at Wells Fargo. On the
25 application for the account, the conspirator provided a Social Security number
26 ending 6426 and a California driver's license number ending 4213, both of which
27 were assigned to and belonged to Q.L. In addition, the conspirator provided the
28 correct month and day of Q.L.'s birth on the account application, but provided a

1 year of birth that was two years earlier than Q.L.'s year of birth.

2 Selected Transactions with Respect to the 5234 Account

3 Each of the ATM transactions set forth in sub-paragraphs b through q below were
4 conducted using the 5234 ATM Card:

- 5 b. On October 1, 2005, the defendant Kam Seto deposited a fraudulent convenience
6 check in the amount of \$3350 into the 5234 Account at an ATM located at 2300
7 Irving Street, San Francisco, CA. On October 6, 2005, this check was returned for
8 insufficient funds.
- 9 c. On October 2, 2005, the defendant Kam Seto withdrew \$600 from the 5234
10 Account at an ATM located at 468 Columbus Avenue, San Francisco, CA.
- 11 d. On October 3, 2005, the defendant Kam Seto made two withdrawals of \$700 each
12 from the 5234 Account using an ATM located at 1160 Grant Avenue, San
13 Francisco, CA.
- 14 e. On October 3, 2005, the defendant Kam Seto deposited a fraudulent convenience
15 check in the amount of \$2360 into the 5234 Account at a Wells Fargo branch at
16 2100 Fillmore Street, San Francisco, CA. On October 6, 2005, this check was
17 returned for insufficient funds.
- 18 f. On October 4, 2005, the defendant Kam Seto made three withdrawals — in the
19 amounts of \$800, \$800, and \$400 — from the 5234 Account at an ATM located at
20 1160 Grant Avenue, San Francisco, CA.
- 21 g. On October 4, 2005, the defendant Kam Seto deposited a fraudulent convenience
22 check in the amount of \$4769 into the 5234 Account at an ATM located at 1160
23 Grant Avenue, San Francisco, CA. On October 11, 2005, this check was returned
24 for insufficient funds.
- 25 h. On October 5, 2005, the defendant Kam Seto made two withdrawals of \$700 each
26 from the 5234 Account at an ATM located at 468 Columbus Avenue, San
27 Francisco, CA.
- 28 i. On October 5, 2005, the defendant Zhijian Wu deposited a fraudulent

1 convenience check in the amount of \$2670 into the 5234 Account at a Wells
2 Fargo branch located at 725 Irving Street, San Francisco, CA. On October 7,
3 2005, this check was returned for insufficient funds.

4 j. On October 6, 2005, the defendant Kam Seto made a withdrawal in the amount of
5 \$800 from the 5234 Account at an ATM located at 1160 Grant Avenue, San
6 Francisco, CA.

7 k. On October 6, 2005, the defendant Kam Seto deposited a fraudulent convenience
8 check in the amount of \$5789.45 into the 5234 Account at an ATM located at
9 1160 Grant Avenue, San Francisco, CA. On October 12, 2005, this check was
10 returned for insufficient funds.

11 l. On October 6, 2005, the defendant Kam Seto deposited a fraudulent convenience
12 check in the amount of \$6870 into the 5234 Account at an ATM located at 1560
13 Van Ness Avenue, San Francisco, CA. On October 13, 2005, this check was
14 returned for insufficient funds.

15 m. On October 7, 2005, the defendant Zhijian Wu made a withdrawal in the amount
16 of \$700 from the 5234 Account at an ATM located on San Bruno Avenue, San
17 Bruno, CA.

18 n. On October 10, 2005, the defendant Peter Chan made a withdrawal in the amount
19 of \$140 from the 5234 Account at an ATM located at Fourth Street and Brannan
20 Street, San Francisco, CA.

21 o. On October 13, 2005, the defendant Peter Chan deposited a fraudulent
22 convenience check in the amount of \$8800 into the 5234 Account at an ATM
23 located on West Portal Avenue, San Francisco, CA. On October 17, 2005, this
24 check was returned for insufficient funds.

25 p. On October 17, 2005, the defendant Peter Chan made two withdrawals — in the
26 amounts of \$800 and \$100 — from the 5234 Account at an ATM located at 4648
27 Mission Street, San Francisco, CA.

28 q. On October 18, 2005, the defendant Peter Chan deposited a fraudulent

1 convenience check in the amount of \$40,000 into the 5234 Account at an ATM
2 located at 4648 Mission Street, San Francisco, CA. On October 21, 2005, this
3 check was returned for insufficient funds.

4 Other Accounts

5 r. Beginning in 2003, and continuing until at least 2005, unknown conspirators
6 opened, or caused to be opened, numerous bank accounts at Wells Fargo and other
7 FDIC-insured financial institutions. In so doing, the conspirators used the names
8 and identities of other individuals, used fictitious identities, or provided other
9 material false information. These bank accounts included, but were not limited to,
10 the following:

- 11 i. Wells Fargo account numbered ending 4655 ("4655 Account"), in the
12 name of "D.T.," opened on or about March 20, 2003.
13 ii. Wells Fargo account numbered ending 1212, in the name of "J.C.,"
14 opened on or about October 6, 2004.
15 iii. Wells Fargo account numbered ending 5537 ("5537 Account"), in the
16 name of "D.Y." This account number was obtained on or about August
17 12, 2005 through a report of "lost/stolen status" on a predecessor account
18 numbered ending 5487 ("5487 Account").

19 s. Beginning in 2005, the defendants and conspirators deposited fraudulent
20 convenience checks and fraudulent bank draft checks into these bank accounts
21 and, thereafter, withdrew funds purportedly related to those checks before the
22 checks were returned for insufficient funds or the bank detected the fraudulent
23 scheme. These deposits included, but were not limited to, the following:

- 24 i. On August 25, 2005, an unknown conspirator deposited a check drawn on
25 the 5234 Account in the amount of \$6200 into the 4655 Account.
26 ii. On September 12, 2005, the defendant Peter Chan deposited a fraudulent
27 convenience check in the amount of \$4200 into the 5537 Account at a
28 branch located at 1900 Union Street, San Francisco, CA. On September

19, 2005, this check was returned for insufficient funds.

iii. On September 13, 2005, the defendant Peter Chan deposited a fraudulent convenience check in the amount of \$7000 into the 5537 Account at an ATM located at 4648 Mission Street, San Francisco, CA. On the same day, Wells Fargo “adjusted out” the check and refused to credit it to the 5537 Account.

All in violation of Title 18, United States Code, Section 1349.

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COUNTS TWOTHROUGH TWENTY-TWO: 18 U.S.C. § 1344 — Bank Fraud

15. The factual allegations in paragraphs 1 through 9 and paragraph 14 are re-alleged and incorporated herein as if set forth in full.

16. Beginning on a date unknown, but by no later than October 5, 2005, and continuing to at least on or about October 19, 2005, in the Northern District of California, and elsewhere, the defendants,

KAM SETO,
PETER CHAN, and
ZHIJIAN WU,

did knowingly devise and execute a scheme and artifice to defraud Wells Fargo and other FDIC-insured financial institutions, and to obtain moneys, funds, credits, assets, and other property owned by and under the custody and control of Wells Fargo and other FDIC-insured financial institutions by means of false and fraudulent pretenses and representations.

THE SCHEME

17. It was part of the scheme and artifice that the defendants and conspirators made misrepresentations of material facts to Wells Fargo and other FDIC-insured financial institutions by opening bank accounts using the names and identities of other individuals, using fictitious identities, or providing other material false information.

18. It was part of the scheme and artifice that the defendants and conspirators made misrepresentations of material facts to FDIC-insured financial institutions and issuing banks of credit cards by opening credit card accounts using the names and identities of other individuals, using fictitious identities, and providing other material false information.

19. It was part of the scheme and artifice that the defendants and conspirators maintained at least some of the bank and credit card accounts in good standing for a period of time, and did so for the purpose of increasing point-of-sale and withdrawal limits with respect to ATM cards related to the bank accounts and for the purpose of obtaining convenience checks (hereafter “fraudulent convenience checks”) and increasing credit limits with respect to the credit card accounts.

1 20. It was part of the scheme and artifice that, after the point-of-sale and withdrawal
2 limits were increased for a particular bank account, the defendants and conspirators deposited
3 fraudulent convenience checks into the bank account, knowing that such checks were fraudulent
4 and would possibly be returned for insufficient funds and, further, intending never to re-pay the
5 issuing banks of such checks for those checks that were not returned for insufficient funds. The
6 defendants and co-conspirators thereafter withdrew, or attempted to withdraw, funds related to
7 those convenience checks from the bank account.

8 21. It was part of the scheme and artifice that, thereafter, the defendants and
9 conspirators deposited additional fraudulent convenience checks into the bank account in order to
10 “cover” the fraudulent convenience checks that previously had been deposited, knowing that
11 such checks were fraudulent and would likely be returned for insufficient funds, and did so for
12 the purpose of perpetuating the conspiracy to defraud.

13 22. It was part of the scheme and artifice that one or more of the defendants caused
14 the 5234 Account to be opened using a variant of Q.L.’s name and using Q.L.’s Social Security
15 number, California driver’s license number, and month and day of birth. Q.L. was a real person
16 known to the defendants Kam Seto and Peter Chan. The 5234 Account was opened without
17 Q.L.’s knowledge and without Q.L.’s permission.

18 23. It was part of the scheme and artifice that the defendants used the 5234 ATM Card
19 to deposit fraudulent convenience checks issued on various credit card accounts into the 5234
20 Account. By so doing, the defendants falsely represented to Wells Fargo that they were
21 authorized to deposit and use the convenience checks, knowing full well that the convenience
22 checks were related to fraudulent credit card accounts, were stolen, or were otherwise invalid.

23 24. It was part of the scheme and artifice that the defendants falsely represented to
24 Wells Fargo that they were authorized to use a variant of Q.L.’s name, Social Security number,
25 and California driver’s license number.

26 25. It was part of the scheme and artifice that, after the defendants deposited the
27 fraudulent convenience checks into the 5234 Account, they used the 5234 ATM Card to
28 withdraw funds from the 5234 Account — both before and after the fraudulent convenience

checks were returned to Wells Fargo, the presenting bank, for insufficient funds — knowing full well that the fraudulent convenience checks would in fact be returned for insufficient funds.

EXECUTION OF THE SCHEME

26. On or about the dates set forth in the separate counts below, in the Northern District of California, and elsewhere, for the purpose of executing the scheme and artifice set forth above, and attempting to do so, the defendant identified below conducted the following financial transactions with respect to the 5234 Account, among other financial transactions:

COUNT	DATE	DEFENDANT	LOCATION	FINANCIAL TRANSACTION
2	10/01/05	Kam Seto	2300 Irving St. San Francisco, CA	ATM deposit of fraudulent convenience check in the amount of \$3350
3	10/02/05	Kam Seto	468 Columbus Ave. San Francisco, CA	ATM withdrawal of \$600
4	10/03/05	Kam Seto	1160 Grant Ave. San Francisco, CA	ATM withdrawal of \$700
5	10/03/05	Kam Seto	1160 Grant Ave. San Francisco, CA	ATM withdrawal of \$700
6	10/03/05	Kam Seto	2100 Fillmore St. San Francisco, CA	Branch deposit of fraudulent convenience check in the amount of \$2360
7	10/04/05	Kam Seto	1160 Grant Ave. San Francisco, CA	ATM withdrawal of \$800
8	10/04/05	Kam Seto	1160 Grant Ave. San Francisco, CA	ATM withdrawal of \$800
9	10/04/05	Kam Seto	1160 Grant Ave. San Francisco, CA	ATM withdrawal of \$400
10	10/04/05	Kam Seto	1160 Grant Ave. San Francisco, CA	ATM deposit of fraudulent convenience check in the amount of \$4769
11	10/05/05	Kam Seto	468 Columbus Ave. San Francisco, CA	ATM withdrawal of \$700
12	10/05/05	Kam Seto	468 Columbus Ave. San Francisco, CA	ATM withdrawal of \$700
13	10/05/05	Zhijian Wu	725 Irving St. San Francisco, CA	Branch deposit of fraudulent convenience check in the amount \$2670
14	10/06/05	Kam Seto	1160 Grant Ave. San Francisco, CA	ATM withdrawal of \$800

COUNT	DATE	DEFENDANT	LOCATION	FINANCIAL TRANSACTION
15	10/06/05	Kam Seto	1160 Grant Ave. San Francisco, CA	ATM deposit of fraudulent convenience check in the amount of \$5789.45
16	10/06/05	Kam Seto	1560 Van Ness Ave. San Francisco, CA	ATM deposit of fraudulent convenience check in the amount of \$6870
17	10/07/05	Zhijian Wu	San Bruno Ave. San Bruno, CA	ATM withdrawal of \$700
18	10/10/05	Peter Chan	4 th St. & Brannan St. San Francisco, CA	ATM withdrawal of \$140
19	10/13/05	Peter Chan	West Portal Ave. San Francisco, CA	ATM deposit of fraudulent convenience check in the amount of \$8800
20	10/17/05	Peter Chan	4648 Mission St. San Francisco, CA	ATM withdrawal of \$800
21	10/17/05	Peter Chan	4648 Mission St. San Francisco, CA	ATM withdrawal of \$100
22	10/18/05	Peter Chan	4648 Mission St. San Francisco, CA	ATM deposit of fraudulent convenience check in the amount of \$40,000

All in violation of Title 18, United States Code, Section 1344.

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1 COUNT TWENTY-THREE: 18 U.S.C. § 1028A(a)(1) — Aggravated Identity Theft

2 27. The factual allegations in paragraphs 1 through 9, paragraph 14, and paragraphs
3 17 through 25, including the scheme and artifice and the fraudulent possession and use of the
4 5234 ATM Card described therein, are re-alleged and incorporated herein as if set forth in full.

5 28. On or about and between October 1, 2005 and October 6, 2005, in the Northern
6 District of California, the defendant

7 KAM SETO

8 did knowingly possess and use, without lawful authority, a means of identification of another
9 person, namely, (a) the variant of Q.L.'s name set out on the 5234 ATM Card and set out on
10 various fraudulent convenience checks deposited into the 5234 Account, and (b) the sequence of
11 numbers ending 2501 on the 5234 ATM Card, during and in relation to felony violations of Title
12 18, United States Code, Sections 1344 and 1349, as alleged in Counts One through Twelve and
13 Counts Fourteen through Sixteen.

14 All in violation of Title 18, United States Code, Section 1028A(a)(1).

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1 COUNT TWENTY-FOUR: 18 U.S.C. § 1028A(a)(1) — Aggravated Identity Theft

2 29. The factual allegations in paragraphs 1 through 9, paragraph 14, and paragraphs
3 17 through 25, including the scheme and artifice and the fraudulent possession and use of the
4 ATM card bearing the name of Q.L. described therein, are re-alleged and incorporated herein as
5 if set forth in full.

6 30. On or about October 5, 2005 and October 7, 2005, in the Northern District of
7 California, the defendant

8 ZHIJIAN WU

9 did knowingly possess and use, without lawful authority, a means of identification of another
10 person, namely, (a) the variant of Q.L.'s name set out on the 5234 ATM Card and set out on at
11 least one fraudulent convenience check deposited into the 5234 Account, and (b) the sequence of
12 numbers ending 2501 on the 5234 ATM Card, during and in relation to felony violations of Title
13 18, United States Code, Sections 1344 and 1349, as alleged in Count One, Count Thirteen, and
14 Count Seventeen.

15 All in violation of Title 18, United States Code, Section 1028A(a)(1).

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1 COUNT TWENTY-FIVE: 18 U.S.C. § 1028A(a)(1) — Aggravated Identity Theft

2 31. The factual allegations in paragraphs 1 through 9, paragraph 14, and paragraphs
3 17 through 25, including the scheme and artifice and the fraudulent possession and use of the
4 ATM card bearing the name of Q.L. described therein, are re-alleged and incorporated herein as
5 if set forth in full.

6 32. On or about and between October 10, 2005 and October 18, 2005, in the Northern
7 District of California, the defendant

8 PETER CHAN

9 did knowingly possess and use, without lawful authority, a means of identification of another
10 person, namely, (a) the variant of Q.L.'s name set out on the 5234 ATM Card and set out on
11 various fraudulent convenience checks deposited into the 5234 Account, and (b) the sequence of
12 numbers ending 2501 on the 5234 ATM Card, during and in relation to felony violations of Title
13 18, United States Code, Sections 1344 and 1349, as alleged in Count One and Counts Eighteen
14 through Twenty-Two.

15 All in violation of Title 18, United States Code, Section 1028A(a)(1).

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1 FORFEITURE ALLEGATION: 18 U.S.C. § 982(a)(2)(A) — Bank Fraud Criminal Forfeiture

2 33. The preceding factual allegations of this Indictment are hereby re-alleged and by
3 this reference fully incorporated herein for the purpose of alleging forfeiture pursuant to the
4 provisions of 18 U.S.C. § 982(a)(2)(A).

5 34. Upon conviction of one or more of the offenses alleged in Counts One through
6 Twenty-Two of this Indictment, the defendants,

7 KAM SETO,
8 PETER CHAN, and
ZHIJIAN WU,

9 shall forfeit to the United States pursuant to 18 U.S.C. § 982(a)(2)(A) all property constituting,
10 and derived from, proceeds the defendants obtained directly and indirectly, as the result of those
11 violations.

12 35. If any of the aforementioned property, as a result of any act or omission of the
13 defendants —

- 14 a. cannot be located upon the exercise of due diligence;
- 15 b. has been transferred or sold to, or deposited with, a third person;
- 16 c. has been placed beyond the jurisdiction of the Court;
- 17 d. has been substantially diminished in value; or
- 18 e. has been commingled with other property that cannot be divided without
19 difficulty;

20 any and all interest defendants have in other property shall be vested in the United States and

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1 forfeited to the United States pursuant to 21 U.S.C. § 853p, as incorporated by 18 U.S.C.
2 § 982(b)(1).

3 All in violation of Title 18, United States Code, Section 982(a)(2)(A) and Rule 32.2 of the
4 Federal Rules of Criminal Procedure.

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6 DATED:

A TRUE BILL

7 *August 13, 2009*

8 *Linda Benjamin*
9 FOREPERSON

10 JOSEPH P. RUSSONIELLO
United States Attorney

11 *Brian J. Stretch*
12 BRIAN J. STRETCH

13 Chief, Criminal Division

14 (Approved as to form: *Waldinger*)

AUSA WALDINGER
AUSA DOWLING